



R. Scott Thompson

Member of the Firm

Tel 973 597 2532

Fax 973 597 2533

sthompson@lowenstein.com

July 19, 2012

VIA ECF

Honorable Esther Salas, U.S.D.J.
Honorable Cathy Waldor, U.S.M.J.
District of New Jersey
King Federal Building & Courthouse
50 Walnut Street
Newark, New Jersey 07101

Re: BanxCorp v. Bankrate, Inc. ("Bankrate"), Civil Action No. 07-3398 (ES - CLW)
BanxCorp v. LendingTree, LLC, Civil Action No. 10-2467 (ES - CLW)

Dear Judges Salas and Waldor:

This firm represents the defendant Bankrate. I am writing to make sure that the letter to the Court from counsel for BanxCorp did not create unnecessary confusion concerning (1) Bankrate's pending motion to dismiss the Fifth Amended Complaint ("5AC") for failure to state a claim, or (2) the agreed-upon schedule in this case.

First, Bankrate's motion to dismiss the 5AC is pending before the Court. Bankrate has not withdrawn the motion or taken any other action that might affect the motion. BanxCorp's suggestion that the motion is "moot" in light of "additional discovery materials on record" is incomprehensible and incorrect. In our motion, we point out that the 5AC fails to allege certain causes of action; any discovery that has taken place could not possibly change the allegations in the 5AC to cure the defects in that pleading. We respectfully urge the Court to ignore BanxCorp's misguided suggestion of mootness.

Second, the parties generally agreed upon a schedule for expert discovery that runs through at least November. The parties also agreed during a status conference with Judge Waldor on June 14, 2012 that summary judgment motions will follow the conclusion of expert discovery. While it appears that BanxCorp has decided to abandon its side of that agreement, the schedule should nevertheless remain in place. We believe that the customary practice of completing all discovery

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-- including expert discovery -- before moving for summary judgment is appropriate here. Both the Court and the parties will benefit if the schedule is set in a way that minimizes, to the extent possible, the possibility of multiple rounds of summary judgment motions.

Respectfully submitted,



R. Scott Thompson

Cc: All Counsel (ECF)